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HOWELL *v.* MORIEN et al.

March 11, 1909.

[63 S. E. 1073.]

Judicial Sales (§ 41*)—Confirmation—Advance on Bid.—After a judicial sale has been regularly made and for a fair price, the mere fact that an upset bid is made of an advance of 10. per cent. on the bid on the sale is not a sufficient reason for ordering a resale.

[Ed. Note.—For other cases, see Judicial Sales, Cent. Dig. § 79; Dec. Dig. § 41.* 8 Va.-W. Va. Enc. Dig. 769, 770.]

Judgment reversed. All the judges concur.

CITY OF RICHMOND *v.* BARRY.

March 11, 1909.

[63 S. E. 1074.]

1. Trial (§ 156*)—Demurrer to Evidence—Effect.—The party demurring to the evidence admits the truth of his adversary's evidence, together with the just inferences which can be drawn therefrom, and waives all of his own evidence conflicting with that of his adversary, together with the inferences from his own evidence which do not necessarily result therefrom.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 355, 356; Dec. Dig. § 156.* 4 Va.-W. Va. Enc. Dig. 522.]

2. Trial (§ 156*)—Demurrer to Evidence—Effect.—Where, on a demurrer to the evidence, the evidence is such that a jury might have found a verdict for the demurree, the court must grant judgment for him.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 354-356; Dec. Dig. § 156.* 4 Va.-W. Va. Enc. Dig. 536.]

3. Municipal Corporations (§ 352*)—Contracts—Construction.—A contract for the construction of sewers, which stipulates that the contractor shall furnish all materials, that excavations shall be done in the most careful manner, shoring all trenches with sheathing, piles, and braces, and, where necessary, the same shall be left in the trenches to prevent settlement, does not give the contractor compensation for lumber left in the sewers and trenches.

[Ed. Note.—For other cases, see Municipal Corporations, Dec. Dig. § 352.* 3 Va.-W. Va. Enc. Dig. 398.]

4. Customs and Usages (§ 18*)—Pleading—Necessity.—It is not necessary to specially plead local and particular usages or customs.

[Ed. Note.—For other cases, see Customs and Usages, Cent. Dig. § 40; Dec. Dig. § 18.* 13 Va.-W. Va. Enc. Dig. 415.]

*For other cases see same topic and section NUMBER in Dec. and Am. Digs. 1907 to date, and Reporter Indexes.